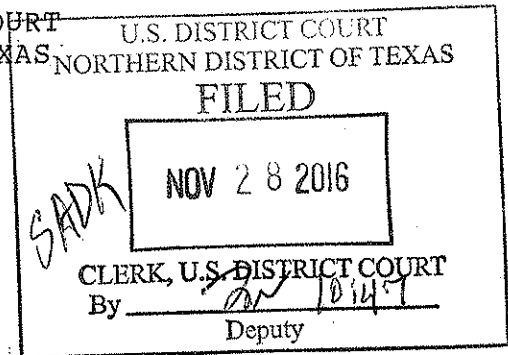


ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION



UNITED STATES OF AMERICA

Plaintiff-Respondent,

Vs.

DAVID ALLEN FELTS

Defendant-Movant.

Criminal No. 4:13-CR-100-6-A

Hon. John H. McBryde, Judge

U.S. District Court Judge

**MOTION FOR REDUCTION IN SENTENCE  
PURSUANT TO 18 U.S.C. § 3582 (c)(2)**

Comes Now, David Allen Felts, the defendant-movant (hereinafter "Felts" or "Movant"), appearing pro se pursuant to 18 U.S.C. § 3582 (c)(2) and respectfully moves this Honorable Court for an order reducing his current sentence of 480 months to reflect the new amended guideline range of 360-480 months<sup>1</sup> based upon (1) the retroactive application of the November 1, 2014 amendment to the United States Sentencing Guidelines ("U.S.S.G."), Amendment 782, and (2) the new guideline amendment was implemented to reduce the offense levels for "All Drugs Minus Two" which would effect the overall guideline sentence

<sup>1/</sup> The Base Offense Level ("BOL") is figured at 41, CH. VI., 360-480 months (restricted to 480 months due to statutory maximum. See 21 U.S.C. § 841 (a)(1) and (b)(1)(B).

exposure. The court has full discretion in p  
18 U.S.C. § 3582 (c)(2).

### I. LEGAL ANALYSIS

The Supreme Court of the United States  
step test for determining whether a court sh  
defendant's sentence under § 3582 (c)(2). Se  
ted States, 130 S.Ct. 2683, 2691-92, 177 L.E

The court first considers whether the s  
cation is authorized. Id. at 2691. A sentence  
authorized if it "is consistent with applical  
ments issued by the Sentencing Commission- n  
of the United States Sentencing Guidelines. ;  
tion and internal marks omitted). Only if the  
that a sentence modification is authorized mu  
sider whether such modification is warranted.  
mine whether the authorized modification is w  
court must consider applicable § 3553 (a) fac  
nature and seriousness of the danger to any p  
community that may be posed by a reduction in  
term of imprisonment." See United States v. R  
1045, 1049, 1052 (5th Cir. 2008)(quoting U.S..  
cmt., n.1 1(B)(2008); see also Dillion, 130 S  
court may also "consider post-sentencing condi  
fendant that occurred after imposition of the  
of imprisonment." Robison, at 1052 (quoting U.

cmt., n.1 (B)).

Amendment to the United States Sentencing Guidelines which took effect on November 1, 2014 and will collaterally take effect on November 1, 2015, does authorize a warranted reduction in movant ("Felts") overall sentence by a minimum of two-levels. The purpose of the guideline amendment in Amendment 782 is to reduce the Offense levels in ALL Drug Offenses to relieve some of the great sentence disparity in drug offenses.<sup>2</sup>

As noted supra, in relevant part, § 1B1.10 requires the court to begin by "determining the amended guideline range applicable to the defendant." see U.S.S.G. § 1B1.10 (b)(1). It then specifies that the court must impose a sentence equal to or above the low end of the amended range unless the term of imprisonment imposed at sentencing was below the defendant's original guidelines range. Id. at § 1B1.10 (b)(2)(A)-(B). In addiiton, the court must also consider the application of the factors set forth in 18 U.S.C. § 3553 (a), including any post-sentencing conduct of the defendant ("Felts"). See U.S.S.G. § 1B1.10 cmt.,n.1 (B).

## II. REASON FOR GRANTING REDUCTION

### (a). Application of the Recent Guideline Amendment Would Lower The Movant's Guideline Range

The movant contends that he is eligible for a reduction

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2/ Amendment 782 allows for the reduction in sentence exposure (Guideline Range) for all drug offenses where it

in sentence based upon the recent amendment to the United States Sentencing Guidelines, i.e. Amendment 782 which took effect on November 1, 2014. The Sentencing Commission also set forth an additional provision that restricts any re-release based upon the amendment not to take effect until November 1, 2015.

Amendment 782, when applied, will reduce the movant's overall guideline sentencing range by a minimum of two-levels resulting a new base offense level ("BOL") and authorize a new sentence.

Taking into consideration, as the court must, the factors set forth in 18 U.S.C. § 3553 (a), the movant qualifies for the application of this amendment. Specifically, defendant asserts that the application of a sentence reduction in no way creates a danger to any person or any community. Moreover, while the nature of the offense, in and of itself, is illegal and an affront to the moral fabric of this society, it did not involve any acts of violence and was not of such a large scale as to have an irreconcilable effect and impact on the community where it took place. The movant, David Allen Felts, does not in anyway, by any means, attempt to mitigate the seriousness of his previous conduct, but only offers the

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2/- (cont'd) has been previously determined to be disparate and severely harsh.

following for consideration in making the determination of whether to grant him the benefit of the recent amendment:

(i). The sentence imposed did not take into consideration the fact that movant ("Felts") has a long history of substance abuse that contributed significantly to his criminal behavior including the offense for which he is currently imprisoned;

(ii). Following the court's imposition of sentence and Felts transfer to the Bureau of Prisons, he has sought Substance Abuse treatment and has completed a "Substance Abuse/Drug Education" class. He is not eligible for participation in the Residential Drug Abuse Program ("RDAP") until he is within 36 months of release.

(iii). The movant, David Allen Felts, pled guilty and accepted responsibility for his criminal conduct and offered his sincere apologies to his family and the court, but was not given credit (from his sentence) for his plea;

(iv). Following imposition of sentence and his transfer to the Bureau of Prisons, he has enlisted and maintained an institutional job assignment as part of his behavioral modification.

(v). Any reduction the court would consider that did not go outside the guideline range would not put Felts at a point of immediate release and would still remain a significant sentence of imprisonment.

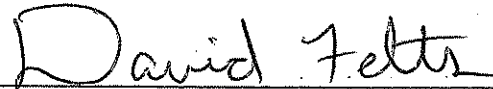
The movant, David Allen Felts, respectfully moves this court to reduce his sentence to the low end of the guideline range, or to a sentence otherwise determined by the court to reflect the movant's post-sentencing conduct. This court can consider any and all post-sentencing conduct. See Pepper v. United States, 562 U.S. \_\_\_, 131 S.Ct. \_\_\_, 179 L.Ed.2d. 196, 2011 U.S. LEXIS 1902 (2011).

III. CONCLUSION

For the reasons and premises set forth herein, the movant, David Allen Felts, respectfully submits and prays that this Court grant him a reduction in sentence deemed to be appropriate by this court in accordance with Amendment 782 to the United States Sentencing Guidelines and Pepper v. United States, 562 U.S. \_\_\_, 131 S.Ct. \_\_\_, 179 L.Ed.2d. 196, 2011 U.S. LEXIS 1902 (2011).

Dated: 11/17/2016.

Respectfully submitted,



David Allen Felts  
Federal No. 46027-177  
ECC Coleman/ USP-1  
P.O. Box 1033  
Coleman, FL. 33521

REGISTER NO: 46027-177 NAME.: FELTS FUNC: PRT  
 FORMAT.....: TRANSCRIPT RSP OF: COP-COLEMAN I USP

----- EDUCATION INFORMATION -----

FACIL	ASSIGNMENT	DESCRIPTION	START DATE/TIME	STOP DATE/TIME
COP	ESL HAS	ENGLISH PROFICIENT	01-21-2014 0001	CURRENT
COP	GED HAS	COMPLETED GED OR HS DIPLOMA	01-21-2014 0001	CURRENT

----- EDUCATION COURSES -----

SUB-FACIL	DESCRIPTION	START DATE	STOP DATE	EVNT	AC	LV	HRS
COP	TOURNAMENT MANAGEMENT CLASS	06-07-2016	06-10-2016	P	C	P	4
COP	RESPONSIBLE THINKING	05-26-2016	07-23-2016	P	C	P	8
COP	SOFTBALL SPORTS RULES	02-19-2016	02-20-2016	P	C	P	4
COP	FIELDS MAINTENANCE CLASS	08-22-2015	08-30-2015	P	C	P	8
COP	HEALTH/NUTRITION CLASS	07-10-2015	08-16-2015	P	C	P	10
COP	TOURNAMENT MANAGEMENT CLASS	05-09-2015	05-10-2015	P	C	P	4
COP	SOFTBALL SPORTS RULES	11-20-2014	11-22-2014	P	C	P	4
COP	RPP HEALTH/NUTRITION #1	04-16-2014	04-16-2014	P	C	P	1

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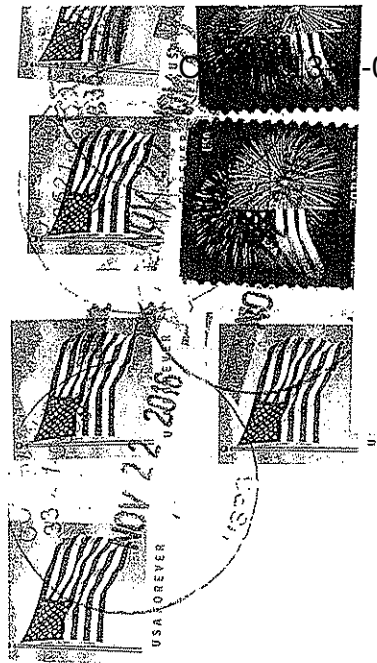
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David Felts  
11-17-2016  
David Felts  
# 46027-177

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